

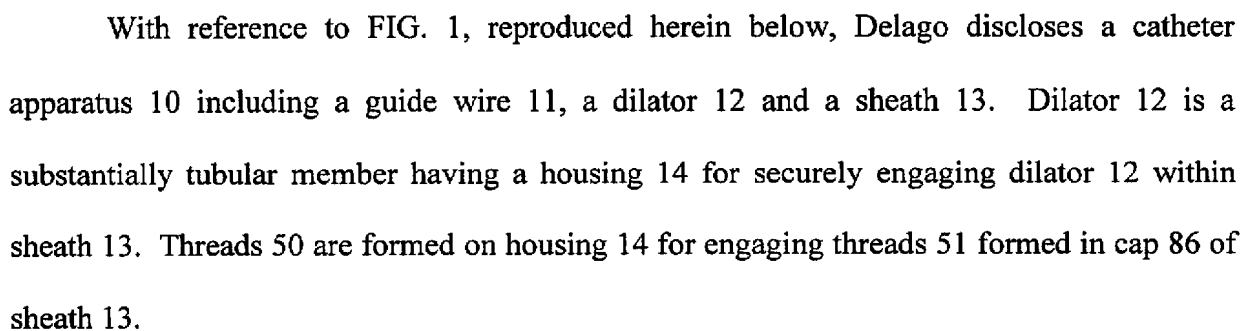
REMARKS

The present amendment is submitted in response to the Office Action mailed March 18, 2008. Claims 1-26 and 31 are currently pending. By the present amendment, claims 1, 17 and 31 have been amended; claims 27-30 having been previously cancelled. No new issues are presented by these amendments. Prompt and favorable consideration of these claims is earnestly sought.

Claims 1-3, 7-9, 11, 12, 17-20, 23-25 and 31 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,827,227 to Delago (hereinafter, "Delago"). According to the Examiner, Delago teaches a sheath system and a method of use substantially as claimed, including a dilation assembly having a handle assembly, and an expansion assembly having a tubular member.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP 2131.01.

Delago fails to teach or disclose a sheath system including, *inter alia*, an expansion assembly including a tubular member, "the tubular member having an outer surface defining a second thread formed along substantially an entire length of the tubular member from a location at least in close proximity to a distal end of the tubular member to a location in close proximity to a proximal end of the tubular member," as substantially recited in amended claim 1. Delago further fails to teach or disclose a method of using a sheath system including, *inter*



Therefore, since Delago does not teach or disclose dilator 12 having threads 50 formed along substantially an entire length of the tubular member, as required in amended claims 1 and 17, it is respectfully submitted that claims 1 and 17 are patentable over Delago and the rejection of the claims 1 and 17 as being anticipated under 35 U.S.C. §102 over Delago, has been overcome.

Since claims 2-3, 7-9, 11 and 12 depend from claim 1 and claims 18-20, 23-25 and 31 depend from claim 17, and each contains all the features of respective claims 1 and 17, for at least the reasons presented above, claims 2-3, 7-9, 11, 12, 18-20, 23-25 and 31 are also allowable under 35 U.S.C. § 102 over Delago.

Claims 1-9, 11, 12, 14 and 15-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,080,174 to Dubrul et al. (hereinafter, "Dubrul") in view of Delago. According to the Examiner, Dubrul teaches a sheath system substantially as claimed, including a dilation assembly and an expansion assembly. However, as the Examiner duly notes, Dubrul fails to teach that the dilation and expansion assemblies include first and second threads, respectively. As such, the Examiner relies on Delago to teach the use of common first and second threads for attaching components in a sheath system.

As discussed above, Delago fails to teach or disclose the thread being formed along a substantial portion of the tubular member. Instead, with reference back to FIG. 1 of Delago, reproduced hereinabove, thread 50 of dilator assembly 12 is formed on housing 14, not on the tubular member, and only extends a portion of a length of housing 14. Thus, Dubrul, taken alone or in any proper combination with Delago, fails to suggest or disclose a dilator

assembly including a tubular member, “the tubular member having an outer surface defining a second thread formed along substantially an entire length of the tubular member from a location at least in close proximity to a distal end of the tubular member to a location in close proximity to a proximal end of the tubular member,” as substantially recited in amended claim 1. Delago further fails to teach or disclose a method of using a sheath system including, *inter alia*, the steps of “introducing an expansion assembly having a tubular member with an outer surface defining a second thread formed along substantially an entire length of the tubular member from a location at least in close proximity to a distal end of the tubular member to a location in close proximity to a proximal end of the tubular member,” as substantially recited in amended claim 17. Therefore it is respectfully submitted that claims 1 and 17 are patentable over Dubrul in view of Delago and the rejection of the claims 1 and 17 under 35 U.S.C. § 103 as being unpatentable over Dubrul in view of Delago, has been overcome.

Since claims 2-9, 11, 12, 14 and 16 depend from claim 1, and claims 18-26 depend from claim 17, and each contain all of the features of respective claims 1 and 17, for the reasons presented above, it is respectfully submitted that claims 2-9, 11, 12, 14, 16, and 18-26 are also allowable.

Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Delago or the combination of Dubrul and Delago. As discussed above, neither Delago nor Dubrul, taken alone or in any proper combination suggest or disclose all the features of independent claim 1. Since claim 10 depends from claim 1, for at least the reasons claim 1 is patentable, claim 10 is also patentable.

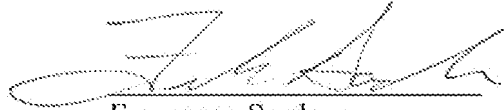
Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubrul/Delago as applied to the 103(a) claim rejection above, in further view of U.S. Patent No. 6,767,355 to Frova et al. (hereinafter, "Frova"). Frova discloses a tracheostomy dilator for widening a tracheal opening. The tracheostomy dilator includes threads on an outer surface that are configured to engage tissue. There is no suggestion, motivation or teaching to use the tracheostomy dilator for any purpose other than to widen an opening in the trachea to access the airway of a patient. A person of ordinary skill in the art of surgical instrument introduction systems for accessing the abdominal cavity would not look to a device for accessing the airway of a patient for a dilator to use with a sheath system to access the abdominal cavity of a patient. Furthermore, as disclosed in column 4 lines 27-31, the first thread 35 is formed such that it has automatic cutting properties. This is necessary for the engagement of tissue. Incorporation of a dilator including a cutting thread formed along any portion thereof would result in a cut or shredded tubular sheath upon insertion of the dilator assembly, thereby rendering the system inoperable. Therefore, the combination of Frova with Dubrul and/or Delago is improper and the rejection of Claim 13 under 35 U.S.C. § 103(a) should be withdrawn.

In view of the foregoing remarks, Applicants submit that all of the claims are in proper format, are patentably distinct from the prior art of record, and are in condition for allowance.

The Examiner is invited to contact the undersigned at the telephone number listed below with any questions concerning this application.

An early and favorable response on the merits is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Sardone', written over a horizontal line.

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